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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/540,008

11/28/2005

Damiano Ottoni

MARGI-0045

2654

23599

7590

08/19/2008

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.

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SUITE 1400

ARLINGTON, VA 22201

EXAMINER

MCGOWAN, JAMIE LOUISE

ART UNIT

PAPER NUMBER

3671

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/540,008	<b>Applicant(s)</b> OTTONI, DAMIANO	
	<b>Examiner</b> JAMIE L. MCGOWAN	<b>Art Unit</b> 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 6/22/2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/22/05</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 8 is objected to because of the following informalities: The claim reads "wherein said grip element includes d base portion". It should read, -- wherein said grip element includes ~~d~~ a base portion--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heiple et al. (6,203,267) in view of McCasland et al (4,932,832) (cited by applicant).

Regarding claims 1 and 10, Heiple et al. discloses an auxiliary device for an excavator with articulated arms, said excavator having at least one mobile excavating tool which is movable in rotation under the action of operating means, the apparatus including:

- At least one supporting element (31) that may be fastened to at least one of said articulated arms (10)
- At least one movable grip element (14,32)

While Heiple et al. discloses the device as described above, it fails to disclose a rigid mechanical connection means to mechanically connect said movable grip element to said excavation tool and transmit to said grip element a movement generated by the rotation of said rotation operating means of the excavation tool. Like Heiple et al, McCasland et al. also discloses an excavation tool (5) with a movable gripping element (11). Unlike Heiple et al., McCasland et al. further discloses that the movable gripping

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element (11) is actuated through a rigid mechanical connection (8) when the excavation tool is rotated by its operating means (3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the rigid mechanical connection means of McCasland et al. in the device of Heiple et al. so that the movable gripping element can be controlled from the operator's cab through the actuation of the operating means instead of requiring the operator to manually move the locking pin (60) to adjust the position of the movable gripping element thereby making the device more efficient and user friendly.

Regarding claims 2 and 11, the combination of Heiple et al. and McCasland et al. discloses that the excavation tool and the grip element are mobile with respect to each other, approaching up to a closing position and moving away up to an opening position.

Regarding claims 3 and 12, the combination of Heiple et al. and McCasland et al. discloses that the rigid mechanical connection means includes rods (McCasland - 8) that connect said grip element to an articulation system of said excavation tool).

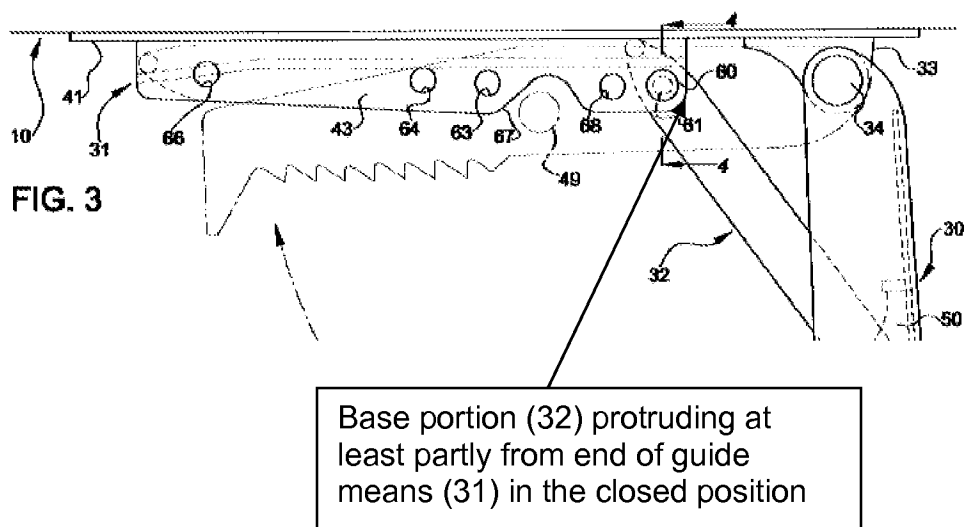
Regarding claims 4 and 13, the combination of Heiple et al. and McCasland et al. discloses that the rods are connected to the articulation system by means of a removable pin (9).

Regarding claim 5, the combination of Heiple et al. and McCasland et al. discloses that the grip element is movable in translation along a rectilinear direction (link 32 of the movable grip slides through support 31 in a rectilinear direction).

Regarding claim 6, the combination of Heiple et al. and McCasland et al. discloses that the grip element is slidingly mounted in guide means included in said supporting element.

Regarding claim 7, the combination of Heiple et al. and McCasland et al. discloses that the ends of the guide means are open.

Regarding claim 8, the combination of Heiple et al. and McCasland et al. discloses that the grip element (14,32) includes a base portion (32) engaged in said guide means (31), said base portion (32) protruding at least partly from said ends of the guide means when said grip element is in opening or closing position (in the closing position (Fig 3) the base portion (32) extends past the end of the guide means (31)) (See Partial Figure 3 Below).



Regarding claim 9, the combination of Heiple et al. and McCasland et al. discloses that the grip element (14,32) can be extracted from said guide means through any one of the open ends of the same.

Regarding claim 14, the combination of Heiple et al. and McCasland et al. discloses that the means for actuating the operation in rotation of said excavation tool include a hydraulic jack.

Regarding claim 15, the combination of Heiple et al. and McCasland et al. discloses that the rigid mechanical connection rods are hinged at the end of the mobile stem of said hydraulic jack.

Regarding claim 16, the combination of Heiple et al. and McCasland et al. discloses that the supporting element is fixed to at least one of said articulated arms by welding (Heiple et al. – column 3 lines 7-8).

Regarding claim 17, the combination of Heiple et al. and McCasland et al. discloses that said grip element (14,32) is slidingly mounted in guide means included in said supporting element.

Regarding claim 18, the combination of Heiple et al. and McCasland et al. discloses that the ends of the guide means are open.

Regarding claim 19, the combination of Heiple et al. and McCasland et al. discloses that the grip element (14,32) includes a base portion (32) engaged in said guide means (31), said base portion (32) protruding at least partly from said ends of the guide means when said grip element is in the closing position.

Regarding claim 20, the combination of Heiple et al. and McCasland et al. discloses that the movable grip element includes a grip portion having a width smaller than the width of said excavation tool.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMIE L. MCGOWAN whose telephone number is (571)272-5064. The examiner can normally be reached on Monday through Friday 8:00 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on (571)272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas B Will/  
Supervisory Patent Examiner  
Art Unit 3671

JLM  
August 18, 2008